

106TH CONGRESS  
1ST SESSION

# S. 1508

To provide technical and legal assistance to tribal justice systems and members of Indian tribes, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

AUGUST 5, 1999

Mr. CAMPBELL introduced the following bill; which was read twice and referred to the Committee on Indian Affairs

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## A BILL

To provide technical and legal assistance to tribal justice systems and members of Indian tribes, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Indian Tribal Justice  
5       Technical and Legal Assistance Act of 1999”.

6       **SEC. 2. FINDINGS.**

7       The Congress finds and declares that—

8               (1) there is a government-to-government rela-  
9       tionship between the United States and Indian  
10      tribes;

1           (2) Indian tribes are sovereign entities and are  
2     responsible for exercising governmental authority  
3     over Indian lands;

4           (3) the rate of violent crime committed in In-  
5     dian country is approximately twice the rate of vio-  
6     lent crime committed in the United States as a  
7     whole;

8           (4) in any community, a high rate of violent  
9     crime is a major obstacle to investment, job creation  
10    and economic growth;

11          (5) tribal justice systems are an essential part  
12    of tribal governments and serve as important forums  
13    for ensuring the health and safety and the political  
14    integrity of tribal governments;

15          (6) Congress and the Federal courts have re-  
16    peatedly recognized tribal justice systems as the  
17    most appropriate forums for the adjudication of dis-  
18    putes affecting personal and property rights on Na-  
19    tive lands;

20          (7) enhancing tribal court systems and improv-  
21    ing access to those systems serves the dual Federal  
22    goals of tribal political self-determination and eco-  
23    nomic self-sufficiency;

24          (8) there is both inadequate funding and an in-  
25    adequate coordinating mechanism to meet the tech-

1 nical and legal assistance needs of tribal justice sys-  
2 tems and this lack of adequate technical and legal  
3 assistance funding impairs their operation;

4 (9) tribal court membership organizations have  
5 served a critical role in providing training and tech-  
6 nical assistance for development and enhancement of  
7 tribal justice systems;

8 (10) Indian legal services programs, as funded  
9 partially through the Legal Services Corporation,  
10 have an established record of providing cost effective  
11 legal assistance to Indian people in tribal court fo-  
12 rums, and also contribute significantly to the devel-  
13 opment of tribal courts and tribal jurisprudence; and

14 (11) the provision of adequate technical assist-  
15 ance to tribal courts and legal assistance to both in-  
16 dividuals and tribal courts is an essential element in  
17 the development of strong tribal court systems.

18 **SEC. 3. PURPOSES.**

19 The purposes of this Act are as follows:

20 (1) to carry out the responsibility of the United  
21 States to Indian tribes and members of Indian tribes  
22 by ensuring access to quality technical and legal as-  
23 sistance.

24 (2) To strengthen and improve the capacity of  
25 tribal court systems that address civil and criminal

1 causes of action under the jurisdiction of Indian  
2 tribes.

3 (3) To strengthen tribal governments and the  
4 economies of Indian tribes through the enhancement  
5 and, where appropriate, development of tribal court  
6 systems for the administration of justice in Indian  
7 country by providing technical and legal assistance  
8 services.

9 (4) To encourage collaborative efforts between  
10 national or regional membership organizations and  
11 associations whose membership consists of judicial  
12 system personnel within tribal justice systems; non-  
13 profit entities which provide legal assistance services  
14 for Indian tribes, members of Indian tribes, and/or  
15 tribal justice systems.

16 (5) To assist in the development of tribal judi-  
17 cial systems by supplementing prior Congressional  
18 efforts such as the Indian Tribal Justice Act (Public  
19 Law 103–176).

20 **SEC. 4. DEFINITIONS.**

21 For purposes of this Act:

22 (1) ATTORNEY GENERAL.—The term “Attorney  
23 General” means the Attorney General of the United  
24 States.

1           (2) INDIAN LANDS.—The term “Indian lands”  
2       shall include lands within the definition of “Indian  
3       country”, as defined in 18 U.S.C. 1151; or “Indian  
4       reservations”, as defined in section 3(d) of the In-  
5       dian Financing Act of 1974, 25 U.S.C. 1452(d), or  
6       section 4(10) of the Indian Child Welfare Act, 25  
7       U.S.C. 1903(10). For purposes of the preceding sen-  
8       tence, such section 3(d) of the Indian Financing Act  
9       shall be applied by treating the term “former Indian  
10      reservations in Oklahoma” as including only lands  
11      which are within the jurisdictional area of an Okla-  
12      homa Indian Tribe (as determined by the Secretary  
13      of Interior) and are recognized by such Secretary as  
14      eligible for trust land status under 25 CFR part 151  
15      (as in effect on the date of enactment of this sen-  
16      tence).

17          (3) INDIAN TRIBE.—The term “Indian tribe”  
18      means any Indian tribe, band, nation, pueblo, or  
19      other organized group or community, including any  
20      Alaska Native entity, which administers justice or  
21      plans to administer justice under its inherent au-  
22      thority or the authority of the United States and  
23      which is recognized as eligible for the special pro-  
24      grams and services provided by the United States  
25      to Indian tribes because of their status as Indians.

1           (4) JUDICIAL PERSONNEL.—The term “judicial  
2           personnel” means any judge, magistrate, court coun-  
3           selor, court clerk, court administrator, bailiff, proba-  
4           tion officer, officer of the court, dispute resolution  
5           facilitator, or other official, employee, or volunteer  
6           within the tribal judicial system.

7           (5) NON-PROFIT ENTITIES.—The term “non-  
8           profit entity” or “non-profit entities” has the mean-  
9           ing given that term in section 501(c)(3) of the Inter-  
10          nal Revenue Code.

11          (6) OFFICE OF TRIBAL JUSTICE.—The term  
12          “Office of Tribal Justice” means the Office of Tribal  
13          Justice in the United States Department of Justice.

14          (7) TRIBAL JUSTICE SYSTEM.—The term “trib-  
15          al court”, “tribal court system”, or “tribal justice  
16          system” means the entire judicial branch, and em-  
17          ployees thereof, of an Indian tribe, including, but  
18          not limited to, traditional methods and fora for dis-  
19          pute resolution, trial courts, appellate courts, includ-  
20          ing inter-tribal appellate courts, alternative dispute  
21          resolution systems, and circuit rider systems, estab-  
22          lished by inherent tribunal authority whether or not  
23          they constitute a court of record.

1 **TITLE I—TRAINING AND TECH-**  
2 **NICAL ASSISTANCE, CIVIL**  
3 **AND CRIMINAL LEGAL AS-**  
4 **SISTANCE GRANTS**

5 **SEC. 101. TRIBAL JUSTICE TRAINING AND TECHNICAL AS-**  
6 **SISTANCE GRANTS.**

7       Subject to the availability of appropriations, the At-  
8 torney General, in consultation with the Office of Tribal  
9 Justice, shall award grants to national or regional mem-  
10 bership organizations and associations whose membership  
11 consists of judicial system personnel within tribal justice  
12 systems which submit an application to the Attorney Gen-  
13 eral in such form and manner as the Attorney General  
14 may prescribe to provide training and technical assistance  
15 for the development, enrichment, enhancement of tribal  
16 justice systems, or other purposes consistent with this Act.

17 **SEC. 102. TRIBAL CIVIL LEGAL ASSISTANCE GRANTS.**

18       Subject to the availability of appropriations, the At-  
19 torney General, in consultation with the Office of Tribal  
20 Justice, shall award grants to non-profit entities, as de-  
21 fined under section 501(c)(3) of the Internal Revenue  
22 Code, which provide legal assistance services for Indian  
23 tribes, members of Indian tribes, or tribal justice systems  
24 pursuant to federal poverty guidelines that submit an ap-  
25 plication to the Attorney General in such form and man-

1 ner as the Attorney General may prescribe for the provi-  
2 sion of civil legal assistance to members of Indian tribes  
3 and tribal justice systems, and/or other purposes con-  
4 sistent with this Act.

5 **SEC. 103. TRIBAL CRIMINAL ASSISTANCE GRANTS.**

6       Subject to the availability of appropriations, the At-  
7 torney General, in consultation with the Office of Tribal  
8 Justice, shall award grants to non-profit entities, as de-  
9 fined by section 501(c)(3) of the Internal Revenue Code,  
10 which provide legal assistance services for Indian tribes,  
11 members of Indian tribes, or tribal justice systems pursu-  
12 ant to federal poverty guidelines that submit an applica-  
13 tion to the Attorney General in such form and manner  
14 as the Attorney General may prescribe for the provision  
15 of criminal legal assistance to members of Indian tribes  
16 and tribal justice systems, and/or other purposes con-  
17 sistent with this Act. Funding under this title may apply  
18 to programs, procedures, or proceedings involving adult  
19 criminal actions, juvenile delinquency actions, and/or  
20 guardian-ad-litem appointments arising out of criminal or  
21 delinquency acts.

22 **SEC. 104. NO OFFSET.**

23       No Federal agency shall offset funds made available  
24 pursuant to this Act for Indian tribal court membership  
25 organizations or Indian legal services organizations



1 against other funds otherwise available for use in connec-  
2 tion with technical or legal assistance to tribal justice sys-  
3 tems or members of Indian tribes.

4 **SEC. 105. TRIBAL AUTHORITY.**

5 Nothing in this Act shall be construed to—

6 (1) encroach upon or diminish in any way the  
7 inherent sovereign authority of each tribal govern-  
8 ment to determine the role of the tribal justice sys-  
9 tem within the tribal government or to enact and en-  
10 force tribal laws;

11 (2) diminish in any way the authority of tribal  
12 governments to appoint personnel;

13 (3) impair the rights of each tribal government  
14 to determine the nature of its own legal system or  
15 the appointment of authority within the tribal gov-  
16 ernment;

17 (4) alter in any way any tribal traditional dis-  
18 pute resolution fora;

19 (5) imply that any tribal justice system is an  
20 instrumentality of the United States; or

21 (6) diminish the trust responsibility of the  
22 United States to Indian tribal governments and trib-  
23 al justice systems of such governments.

1 **SEC. 106. AUTHORIZATION OF APPROPRIATIONS.**

2       For purposes of carrying out the activities under this  
3 Act, there are authorized to be appropriated such sums  
4 as are necessary for fiscal years 2000 through 2004.

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